

obligations of the funds allocated separately to each SDA for title II-A or II-C programs.

(2) The Governor shall not establish reallocation requirements that are inconsistent with the provisions of section 109(a) of the Act.

(b) The Secretary shall reallocate title II-A and II-C funds among the States in accordance with the provisions of section 109(b) of the Act. The amounts to be reallocated, if any, shall be based on State obligations of the funds allotted separately to each State for title II-A or II-C programs, excluding funds allotted under section 202(c)(1)(D) and the State's obligation of such funds.

(c) Title III funds shall be reallocated by the Secretary in accordance with section 303 of the Act.

§ 627.415 Insurance.

(a) *General.* Each recipient and subrecipient shall follow its normal insurance procedures except as otherwise indicated in this section and § 627.465, Property Management Standards.

(b) DOL assumes no liability with respect to bodily injury, illness, or any other damages or losses, or with respect to any claims arising out of any activity under a JTPA grant or agreement whether concerning persons or property in the recipient's or any subrecipient's organization or that of any third party.

§ 627.420 Procurement.

(a) *General.* (1) For purposes of this section, the term *procurement* means the process which leads to any award of JTPA funds.

(2) The Governor, in accordance with the minimum requirements established in this section, shall prescribe and implement procurement standards to ensure fiscal accountability and prevent waste, fraud, and abuse in programs administered under this Act.

(3) When procuring property and services, a State shall follow the same policies and procedures it uses for procurements from its non-Federal funds, provided that the State's procurement procedures also comply with the minimum requirements of this section.

(4) Each subrecipient shall use its own procurement procedures which reflect applicable State and local laws

and regulations, provided that the subrecipient's procurement procedures also comply with the requirements of this section and the standards established by the Governor, pursuant to paragraph (a)(2) of this section.

(5) States and subrecipients shall not use funds provided under JTPA to duplicate facilities or services available in the area (with or without reimbursement) from Federal, State, or local sources, unless it is demonstrated that the JTPA-funded alternative services or facilities would be more effective or more likely to achieve performance goals (sections 107(b) and 141(h)).

(6) Awards are to be made to responsible organizations possessing the demonstrated ability to perform successfully under the terms and conditions of a proposed subgrant or contract. A determination of demonstrated ability shall be done in accordance with the requirements contained in § 627.422 (b) and (d).

(b) *Competition.* (1) Each State and subrecipient shall conduct procurements in a manner which provides full and open competition. Some of the situations considered to be restrictive of competition include, but are not limited to:

(i) Placing unreasonable requirements on firms or organizations in order for them to qualify to do business;

(ii) Requiring unnecessary experience and excessive bonding;

(iii) Noncompetitive pricing practices between firms or organizations or between affiliated companies or organizations;

(iv) Noncompetitive awards to consultants that are on retainer contracts;

(v) Organizational conflicts of interest;

(vi) Specifying only a "brand name" product instead of allowing "an equal" product to be offered and describing the performance of other relevant requirements of the procurement;

(vii) Overly restrictive specifications; and

(viii) Any arbitrary action in the procurement process.

(2) Each State and subrecipient shall have written procedures for procurement transactions. These procedures shall ensure that all solicitations: